

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

DAVID LAMONT MORGAN	§	
VS.	§	CIVIL ACTION NO. 4:14cv151
DENISON POLICE DEPT., ET AL.	§	

ORDER

Plaintiff David Lamont Morgan, previously a prisoner in the custody of the Denison Police Department, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. He alleges that he was assaulted by Officer Douglas on July 6, 2012. The complaint was referred to United States Magistrate Judge Amos L. Mazzant, who issued a Report and Recommendation concluding that Plaintiff's second motion for a temporary restraining order and preliminary injunction should be denied. Plaintiff has filed objections.

The prerequisites for a temporary restraining order and/or preliminary injunction are:

(1) substantial likelihood that the moving party will prevail on the merits of the underlying suit, (2) a substantial threat that the moving party will suffer irreparable injury if the injunction is not granted, (3) that the threatened injury to the movant outweighs the threatened harm the injunction may do to the nonmovant, and (4) that granting the preliminary injunction and/or temporary restraining order will not disserve the public interest. *Libertarian Party of Texas v. Fainter*, 741 F.d 2d 728, 729 (5th Cir. 1984). Since a temporary restraining order and/or preliminary injunction are extraordinary, and perhaps drastic remedies, they are not granted unless the movant

clearly carries the onerous burden of persuasion as to all the elements. *United States v. Jefferson County*, 720 F.2d 1511, 1519 (5th Cir. 1983). In his objections, Plaintiff cites the four prongs and asserts that he will prevail on the merits of his lawsuit, but he did not clearly prove any of the four prerequisites for obtaining a temporary restraining order and/or preliminary injunction. He has not shown that he is entitled to have the motion granted.

The Report of the Magistrate Judge, which contains his proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Plaintiff to the Report, the court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and Plaintiff's objections are without merit. It is therefore

ORDERED that Plaintiff's second motion for a temporary restraining order and preliminary injunction (docket entry #14) is **DENIED**.

So **ORDERED** and **SIGNED** this **30** day of **July, 2014**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge